

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PATRICIA WARD,

Plaintiff,

CATHOLIC CEMETERIES, INC.,

Defendant.

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Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT

Parties

1. Plaintiff Patricia Ward is, and at all times relevant hereto was, a resident of Dagsboro, Delaware.

2. Defendant Catholic Cemeteries, Inc. is a Delaware corporation whose agent for service of process is Rev. Msgr. Joseph F. Rebman of 6001 Kirkwood Highway, Wilmington, Delaware 19808.

Jurisdiction

3. The United States District Court for the District of Delaware has jurisdiction over the parties and the claims by virtue of the pendency of a federal claim under 42 U.S.C. § 2000e-1 et. seq. (Title VII anti-discrimination statute) and 28 U.S.C. §§ 1331 and 1343, and under the principles of ancillary and pendent jurisdiction as well as the supplemental jurisdiction provisions of 28 U.S.C. § 1367.

ORIGINAL

Facts

4. Plaintiff Patricia Ward was an employee of defendant Catholic Cemeteries, Inc. at the Gate of Heaven Cemetery in Dagsboro, Delaware, working as an office coordinator beginning on or about January 28, 2003, and continuing until her termination on or about September 25, 2006.

5. Ms. Ward is not a member of the Catholic religion, a fact of which she believes that her supervisor, Mark Christian, was not aware at the time he hired her.

6. Ms. Ward originally applied for the job at Gate of Heaven Cemetery in response to an advertisement that appeared in a Catholic bulletin circulated in the Diocese, and given to her by a friend; on information and belief, this is the only publication in which the job was advertised.

7. Ms. Ward was told at or around the time of her hire by Rita Crozier in the defendant's Wilmington office that her supervisor, the aforesaid Mr. Christian, would not be happy about her non-Catholic status; Ms. Ward believes that Mr. Christian's religious-based bias against her was shared by defendant's Human Resources director, Sister Suzanne Donovan.

8. Ms. Ward had received outstanding performance reviews throughout her tenure at Catholic Cemeteries, Inc., with virtually no negative feedback with regard to her ability to do the job properly.

9. Ms. Ward was told, in the letter terminating her (signed by Mr. Christian), that the reason for her termination was a fall-off in revenue and sales.

10. On information and belief, and based upon her knowledge and understanding of the business condition of the Gate of Heaven Cemetery, Ms. Ward asserts that a fall-off in

revenue and sales was not the true reason for her termination, but rather a pretext for religious and gender discrimination.

11. No warning or probationary period was afforded to Ms. Ward prior to her termination, in contrast to warnings provided to male employees, including Nick Hoopes, Harold Cole, Brian Gagnon, Sean Suter, and others.

12. Ms. Ward suffered hostile and discriminatory treatment from her supervisor, Nick Hoopes, and from Mr. Christian, based upon her gender and religion.

13. The negative bias of Mr. Christian and Mr. Hoopes towards women was further demonstrated in the manner in which the hiring of a gatekeeper for the cemetery was handled, wherein a male was hired (five of six applicants were female) when the ideal candidate was obviously a woman who lived across the street from the cemetery; Mr. Hoopes at that time commented that neither he nor Mr. Christian would consider a woman for the position.

14. Between September 15 to 18, 2006, tension in the Gate of Heaven Cemetery office over the manner in which paychecks were to be disbursed and then over the manner in which a particular gravesite was administered (relating to a memorial photo attached to the grave) resulted in Ms. Ward being accused by Mr. Hoopes of insubordination; although the defendant has claimed that these events did not influence Ms. Ward's termination, the defendant emphasized these events in its presentation to the Delaware Department of Labor in response to Ms. Ward's claims of discrimination.

15. Ms. Ward believed that the accusation of insubordination was grossly unfair, and appealed to Sister Suzanne Donovan, first in a phone call and then with a letter, outlining the gender and religious discrimination which she had suffered.

16. Shortly after sending to Sister Donovan the aforesaid letter in which her gender and religious discrimination claims were identified, Ms. Ward was terminated in a retaliatory fashion.

17. Mr. Christian has suggested, in a letter to the Delaware Department of Labor, that the decision to terminate Ms. Ward had been made on August 31, 2006, a suggestion that does not square with ensuing events that indicate that no such decision had been made on that date; these circumstances further demonstrate the existence of a falsely-created pretext intended to disguise what is in fact gender and religious discrimination.

18. Subsequent to her termination, Ms. Ward filed charges of discrimination with the Delaware Department of Labor and the Equal Employment Opportunity Commission, leading to receipt of the letter giving her the right to sue, attached hereto as Exhibit A.

COUNT I

Violation of the religious and gender bias and retaliation provisions of Title VII, 42 U.S.C. § 2000e-1 et seq.

19. Paragraphs 1 to 18 are restated as if more fully set forth herein.

20. The action of defendant Catholic Cemeteries, Inc. in terminating Ms. Ward was motivated by unlawful gender and religious discrimination and further was in retaliation for having raised her rights under Title VII, in violation of 42 U.S.C. § 2000e-1 et seq.

21. Ms. Ward has suffered damages as a result of the actions of defendant Catholic Cemeteries, Inc. including lost salary and benefits, damage to her career and reputation, great mental anguish and embarrassment, and other losses.

COUNT II

**Violation of Delaware Gender and Religious Discrimination statute and proscription
against retaliation, 19 Del. C. § 711 et seq.**

22. Paragraphs 1-21 are restated as if more fully set forth herein.

23. The action of defendant Catholic Cemeteries in terminating Ms. Ward was motivated by unlawful gender and religious discrimination and retaliatory motive, in violation of the State of Delaware statutory protections against age discrimination in employment, 19 Del. C. § 711 et seq.

24. Ms. Ward has suffered damages as a result of the actions of Catholic Cemeteries, Inc., including lost salary and benefits, damage to her career and reputation, great mental anguish and embarrassment, and other losses.

COUNT III

**Violation of the Delaware Common Law Covenant of Good Faith and Fair Dealing
(Falsification of Reasons)**

25. Paragraphs 1 to 24 are restated as if more fully set forth herein.

26. The defendant Catholic Cemeteries, Inc. has stated that Ms. Ward's termination was decided upon on or about August 31, 2006, based upon a loss of revenue at Gate of Heaven cemetery; these statements constitute a falsification of the true reasons for her termination, which

was based upon religious and gender bias and retaliatory motive, including the aforesaid events of September 15-18, 2006.

27. The actions of defendant Catholic Cemeteries, Inc. constitute a violation of the Delaware common law Covenant of Good Faith and Fair Dealing.

28. Ms. Ward has suffered damages as a result of the actions of Catholic Cemeteries, Inc., including lost salary and benefits, damage to her career and reputation, great mental anguish and embarrassment, and other losses.

WHEREFORE, plaintiff demands that judgment be entered in her favor against defendant on the above claims, including awards of compensatory damages, punitive damages, costs of suit, interest, attorneys' fees under any appropriate or relevant statutory or common law basis, and such other and further relief as this Court may deem appropriate.

PLAINTIFF PATRICIA WARD



By: Herbert G. Feuerhake, Esq. #2590
521 West Street
Wilmington, Delaware 19801
(302) 658-6101
herblaw@verizonmail.com
Attorney for Plaintiff

DATE: November 2, 2007

Exhibit A

DISMISSAL AND NOTICE OF RIGHTS

To: Patricia Ward
208 Woodlands Court
Dagsboro, DE 19939

From: Philadelphia District Office
801 Market Street
Suite 1300
Philadelphia, PA 19107

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

17C-2007-00040

Charles Brown, III,
State & Local Coordinator

(215) 440-2842

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans with Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.

☐

Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.

☐

While reasonable efforts were made to locate you, we were not able to do so.

☐

You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☒

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

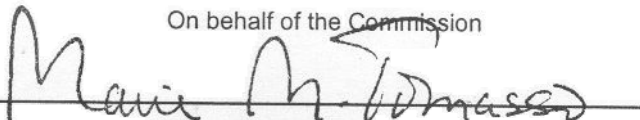
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this Notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Marie M. Tomasso,
District Director

August 8, 2007

(Date Mailed)

Enclosure(s)

cc: CATHOLIC CEMETERIES, INC.
Office Of Human Resources
1626 N. Union Street
Wilmington, DE 19806

Herbert G. Feuerhake, Esq.
Wilmington, DE 19801

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Patricia Ward

(b) County of Residence of First Listed Plaintiff New Castle Cty.
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Herbert G. Feuerhahn
521 West Street
Wilmington Delaware 19801

(302) 652-6101

DEFENDANTS

Catholic Cemeteries, Inc.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | |
|---|--------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Product Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Ine. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 2000e-1

Brief description of cause:

Employment discrimination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

Money damages

CHECK YES only if demanded in complaint:

JURY DEMAND:

Yes ☒ No ☐

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/02/2007

SIGNATURE OF ATTORNEY OF RECORD

Herbert G. Feuerhahn

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

07 - 691

Civil Action No. _____

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

11/2/07

(Date forms issued)

x [Signature]

(Signature of Party or their Representative)

x Herbert G. Feuerholz Esq.

(Printed name of Party or their Representative)

(for
Patrick
Lund)

Note: Completed receipt will be filed in the Civil Action